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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,418	02/09/2004	Katsuhiko Hara	00862.022146.1	6585
5514 7590 09/07/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER SORRELL, ERON J	
			ART UNIT 2182	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,418

Applicant(s)

HARA ET AL.

Examiner

Eron J. Sorrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32,33,36-38,41-43,46 and 47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32,33,36-38,41-43,46 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/805,883.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/23/07 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 32,33,36-38,41-43,46, and 47 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art

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that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Claims 32,37,42, and 47 recite limitations in which the image processing device (i.e. a scanner) obtains a scanner and printer driver from an information processing device and executes both the scanner driver for carrying out a scanning operation and a printer driver for driving the printer. These limitations do not appear to be supported by the original specification. It seems that the image processing apparatus only obtains the printer driver for driving the printer and the information processing apparatus executes the scanner driver for carrying out scanning operations (see paragraphs 92-100 and 102-112). Clarification is requested and/or appropriate correction is required. For the purpose of compact prosecution, the Examiner will interpret the claims as they are currently drafted (i.e. the image forming apparatus obtains both drivers).

5. Claims 33,36,38,41,43, and 46 are rejected based on their dependency on claims 32,37,42, and 47.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 32,33, and 36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

8. Referring to claim 32,32, and 36 each of the claim limitations can be reasonably construed as software modules resulting in an apparatus claim consisting entirely of software modules, or software per se. Software, per se is non-statutory, unless claimed in combination with a computer-readable storage medium (see MPEP 2106).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 32,33,36-38,41-43, and 46are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (U.S. Patent No.

6,628,422) in view of Motoyama et al. (U.S. Pub. No. 2004/0215744 hereinafter "Motoyama") and further in view of TCP/IP Illustrated Volume I, The Protocols (author: W. Richard Stevens, hereinafter "Stevens").

11. Referring to claims 32,37, and 47, Ouchi teaches an information processing apparatus connected with an external information processing apparatus and a peripheral apparatus via a network, the external processing apparatus comprising:

transfer means for transferring the scanner driver and the printer driver from said information processing apparatus without receiving a request for obtaining the scanner driver and the printer driver from said information image processing apparatus (see lines 31-50 of column 7);

the image processing apparatus comprising:

obtaining means for obtaining a printer driver delivered from the external information processing apparatus (see abstract and lines 31-50 of column 7);

executing means for executing a scanning process to obtain data (see lines 17-42 of column 9); and

transmitting means for transmitting the data obtained by the scanning processes (see lines 17-42 of column 9);

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wherein said transmitting means is executed by the printer driver to cause a print service in the peripheral device to print the data obtained by the scanning process (see lines 55-67 of column 9).

Ouchi fails to teach the scanner receives a scanner driver for executing the scanning process and fails to teach the print service is called remotely using a remote procedure call implemented in the printer driver.

Motoyama teaches, in an information processing apparatus, a peripheral, which may be a scanner obtaining its own driver to execute scanning operations (see paragraph 3).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the teachings of Ouchi with the above teachings of Motoyama in order to store the most recent version of the driver within the device to make it available to other devices on the network as suggested by Motoyama (see paragraph 3).

Stevens teaches, in a networking environment, the use of remote procedure calls is efficient network programming practice and provides a layer of abstraction which allows for code reuse (see page 462). For these reasons, it would have been obvious to modify the combination of Ouchi and Motoyama with the above teachings of Stevens.

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12. Referring to claims 33,38, and 43, the combination of Ouchi, Motoyama, and Stevens the image processing apparatus, further comprising driving means for, after obtaining the device scanner driver and the printer driver, executing the device scanner driver and the printer driver in response to completion of preparation of the device scanner driver and the printer driver to drive the peripheral device (see Ouchi lines 31-50 of column 7, wherein the driver is disclosed. Incorporating the teachings of Motoyama the printing operations would not be able to be carried out until the drivers have completed the installation process.

13. Referring to claims 36,41, and 46, Stevens teaches, in a networking environment, the use of remote procedure calls is efficient network programming practice and provides a layer of abstraction which allows for code reuse (see page 462). For these reasons, it would have been obvious to modify the combination of Ouchi and Motoyama with the above teachings of Stevens.

Response to Arguments

14. Applicant's arguments with respect to claims 32,37,42, and 47 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eron J. Sorrell whose telephone number is 571 272-4160. The examiner can normally be reached on Monday-Friday 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on 571-272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EJS

September 3, 2007

For David 9/3/07